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**Exempt from Filing Fees  
Government Code § 6103**

7 Attorneys for Defendants  
CITY OF SOUTH PASADENA

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF LOS ANGELES, BURBANK COURTHOUSE**

11 ALISON SMITH, an individual,  
12  
13 Plaintiff,  
14  
15 v.  
16 CITY OF SOUTH PASADENA; and, DOES 1  
17 through 25, inclusive,  
18  
19 Defendants.

**CASE NO. 19BBCV00118**  
*Unlimited Jurisdiction*  
  
(Case assigned to Hon. John J. Kralik)  
  
**CITY OF SOUTH PASADENA'S  
ANSWER TO SECOND AMENDED  
COMPLAINT**  
  
Complaint Filed: February 6, 2019  
Dept.: B

18  
19 Defendant CITY OF SOUTH PASADENA hereby answers the Second Amended Complaint  
20 on file herein and admits, denies and alleges as follows:

21 1. Pursuant to Code of Civil Procedure section 431.30, this answering Defendant denies  
22 generally and specifically each and every allegation of the Second Amended Complaint, and further  
23 denies any and all wrongful conduct, whether or not alleged in the Second Amended Complaint. This  
24 answering Defendant further denies that Plaintiff has been or will be damaged in the sum or manner  
25 alleged, or in any other sum or manner, or at all, by reason of any act, breach, or omission on the part  
26 of the CITY OF SOUTH PASADENA or any of its agents, officers, or employees. This answering  
27 Defendant further denies that any of the Plaintiff is entitled to any relief of any kind or nature from  
28 the CITY OF SOUTH PASADENA.

Colantuono, Highsmith & Whatley, PC  
790 E. COLORADO BOULEVARD, SUITE 850  
PASADENA, CA 91101-2109

1           2.       As separate and distinct answers and defenses to the Second Amended Complaint,  
2 this answering Defendant alleges as follows:

3  
4                   **AS A FIRST SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**  
5                                   **(Failure to State a Cause of Action)**

6           3.       The Second Amended Complaint, and each and every cause of action as stated therein  
7 fail to state a cause of action against this answering Defendant.

8  
9                   **AS A SECOND SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**  
10                                   **(Statutes of Limitation)**

11           4.       Plaintiff's claims are barred, in whole or in part, because they have failed to file this  
12 action before the expiration of the relevant statutes of limitations under Code of Civil Procedure  
13 sections 335 through 349.4, inclusive, including but not limited to, sections 337, 337.1, 337.5, 338,  
14 339, 340, 341 and 343, as well as Government Code section 911.2, 945.6 and 945.8.

15  
16                   **AS A THIRD SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**  
17                                   **(Failure to Mitigate)**

18           5.       Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to exercise  
19 reasonable diligence or take actions to mitigate her alleged damages, and any recovery awarded, if at  
20 all, should be reduced by the amount of damages, costs, or attorney fees that could have been  
21 avoided by Plaintiff.

22  
23                   **AS A FOURTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**  
24                                   **(Fault of Plaintiff)**

25           6.       Plaintiff's claims are barred, in whole or in part, because the alleged damages  
26 complained of by Plaintiff was negligently, carelessly, recklessly, and/or intentionally caused by  
27 Plaintiff's own acts or omissions. These acts or omissions were the proximate and legal cause of  
28

1 Plaintiff's alleged damages, if any, and Plaintiff is therefore barred from recovery from this  
2 answering Defendant.

3  
4 **AS A FIFTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

5 **(Fault of Others)**

6 7. Plaintiff's claims are barred, in whole or in part, because the alleged damages  
7 complained of by Plaintiff were negligently, carelessly, recklessly, and/or intentionally caused by the  
8 acts or omissions of third parties or entities. These acts or omissions were the proximate and legal  
9 cause of Plaintiff's alleged damages, if any, and Plaintiff is therefore barred from recovery from this  
10 answering Defendant.

11  
12 **AS A SIXTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

13 **(Comparable Fault)**

14 8. Plaintiff's claims are barred, in whole or in part, because the alleged damages  
15 complained of by Plaintiff, if any, which are expressly denied by Defendant, were negligently,  
16 carelessly, recklessly, and/or intentionally caused by Plaintiff's own acts or omissions. These acts or  
17 omissions were the proximate and legal cause of Plaintiff's alleged damages, if any, and  
18 comparatively reduce the percentage of any fault or liability attributable to Defendant, if it should be  
19 found that Defendant was at fault or liable.

20  
21 **AS A SEVENTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

22 **(Comparable Fault of Others)**

23 9. Plaintiff's claims are barred, in whole or in part, because the alleged damages  
24 complained of by Plaintiff, if any, which are expressly denied by Defendant, were negligently,  
25 carelessly, recklessly, and/or intentionally caused by the acts or omissions of other persons or  
26 entities. These acts or omissions were the proximate and legal cause of Plaintiff's alleged damages,  
27 if any, and comparatively reduce the percentage of any fault or liability attributable to Defendant, if  
28 it should be found that Defendant was at fault or liable.

1 **AS AN EIGHTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

2 **(Non-economic damages)**

3 10. This answering Defendant’s liability, if any, for non-economic damages is limited to  
4 this answering Defendant’s proportionate share of fault in accordance with Civil Code sections 1431  
5 through 1431.5.

6  
7 **AS A NINTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

8 **(Indemnity)**

9 11. Defendant alleges it is entitled to indemnification from all parties and persons whose  
10 negligence or other acts or omissions contributed to the occurrence of Plaintiff’s alleged incident or  
11 alleged damages, as set forth in the Second Amended Complaint.

12  
13 **AS A TENTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

14 **(Intervening Acts)**

15 12. Plaintiff’s claims are barred, in whole or in part, because independent, intervening  
16 and/or superseding causes, such as negligent, careless, reckless, and/or intentional acts or omissions  
17 of Plaintiff and/or other persons or entities proximately caused or contributed to Plaintiff’s alleged  
18 damages, if any, and therefore bar Plaintiff’s claims against this answering Defendant.

19  
20 **AS AN ELEVENTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

21 **(Plaintiff’s Own Acts)**

22 13. The alleged damages sustained by Plaintiff, if any, were the result of acts or  
23 omissions of Plaintiff, which were not and could not be foreseen by Defendant. These acts or  
24 omissions include, but are not limited to, negligently and carelessly owning, maintaining, managing  
25 and operating the premises described in the Second Amended Complaint, failing to obtain required  
26 building permits and/or inspections on the property/premises for the sewer cleanout pipe where the  
27 sewer overflow alleged in the Second Amended Complaint occurred, failing to properly maintain the  
28 sewer cleanout pipe where the sewer overflow alleged in the Second Amended Complaint occurred,

1 failing to obtain required building permits and/or inspections for the terrace and retaining wall area  
2 where the sewer cleanout pipe is located, failing to install a code-mandated backflow prevention  
3 device, failing make necessary repairs to the premises, and failing to establish and maintain  
4 precautionary measures. These acts or omissions by Plaintiff proximately caused or contributed to  
5 Plaintiff's alleged damages, if any, and therefore bar or reduce Plaintiff's claims or damages alleged  
6 against this answering Defendant.

7  
8 **AS A TWELFTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**  
9 **(Assumption of Risk)**

10 14. Plaintiff's claims are barred because Plaintiff knowingly assumed the risk of the  
11 injuries, damages, or conduct alleged in the Second Amended Complaint by her own conduct, acts or  
12 omissions, or the conduct, acts or omissions of her employees, joint tenants, representatives, agents  
13 or contractors, and Plaintiff's claims are therefore barred in their entirety.

14  
15 **AS A THIRTEENTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**  
16 **(Unclean Hands)**

17 15. Plaintiff's claims are barred, in whole or in part, to the extent that Plaintiff has  
18 unclean hands. As a result, it is inequitable to grant Plaintiff the relief she seeks.

19  
20 **AS A FOURTEENTH SEPARATE AFFIRMATIVE DEFENSE**  
21 **TO ALL CAUSES OF ACTION**  
22 **(Failure to Join Indispensable Parties)**

23 16. The purported claims and causes of action contained in the Second Amended  
24 Complaint require for their full, final and complete resolution and adjudication the presence of  
25 additional necessary and/or indispensable parties that are not participating in this action, including  
26 but not limited to, Paul Smith, whom Defendant is informed and believes holds title to the property  
27 which is the subject of this action as a joint tenant. Due to Plaintiff's failure to name indispensable  
28 parties, Plaintiff has violated the rule against splitting causes of action and/or has prejudiced

1 Defendant, thus barring Plaintiff's recovery herein. All of Plaintiff's Causes of Action should be  
2 dismissed pursuant to Code of Civil Procedure section 389 because Plaintiff fail to name  
3 indispensable parties, complete relief cannot be accorded among those already parties, and the  
4 failure to name indispensable parties leaves Defendant subject to substantial risk of incurring double,  
5 multiple, or inconsistent obligations or other prejudice to Defendant.

6  
7 **AS A FIFTEENTH SEPARATE AFFIRMATIVE DEFENSE**

8 **TO ALL CAUSES OF ACTION**

9 **(Estoppel)**

10 17. To the extent that Plaintiff has made certain representations, agreements, and  
11 committed various acts and omissions, her recovery against Defendant, if any, is barred or reduced  
12 under the doctrine of estoppel.

13  
14 **AS A SIXTEENTH SEPARATE AFFIRMATIVE DEFENSE**

15 **TO ALL CAUSES OF ACTION**

16 **(Mootness)**

17 18. As a further separate defense, the Second Amended Complaint fails because  
18 Plaintiff's claims are moot.

19  
20 **AS A SEVENTEENTH SEPARATE AFFIRMATIVE DEFENSE**

21 **TO ALL CAUSES OF ACTION**

22 **(Actions Not Unreasonable)**

23 19. Plaintiff's claims are barred in whole or in part because Defendant's actions, omissions  
24 or conduct complained of were not unreasonable.

1 **AS AN EIGHTEENTH SEPARATE AFFIRMATIVE DEFENSE**

2 **TO ALL CAUSES OF ACTION**

3 **(Privileged Activity)**

4 20. Plaintiff's claims are barred in whole or in part because the alleged entry onto  
5 Plaintiff's property was lawful and/or necessary to prevent harm to a person or property.

6  
7 **AS A NINETEENTH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

8 **(Consent)**

9 21. Plaintiff's claims are barred in whole or in part because the alleged entry onto  
10 Plaintiff's property was made with the consent of the property owner.

11  
12 **AS A TWENTIETH SEPARATE AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

13 **(No causation)**

14 22. Plaintiff's claims are barred, in whole or part, because any and all of Defendant's  
15 actions, conduct, plans and/or the acts complained of in the Second Amended Complaint were not a  
16 substantial cause of Plaintiff's alleged damages or because there were other acts, actions, conduct,  
17 events, forces, or personal circumstances, which caused Plaintiff's alleged damages.

18  
19 **AS A TWENTY-FIRST SEPARATE AFFIRMATIVE DEFENSE**

20 **TO ALL CAUSE OF ACTION**

21 **(Collateral source offset)**

22 23. Defendant alleges that to the extent that any damages, attorney fees, litigation  
23 expenses or costs are compensated by a collateral source, such amounts should be reduced or offset  
24 to the extent they have been or will be compensated by a collateral source. Defendant further alleges  
25 that the collateral source rule does not apply to inverse condemnation damages. Plaintiff is not  
26 entitled to a double recovery of damages. Any recovery by Plaintiff should be reduced by any  
27 collateral source payments paid to or obligated to Plaintiff pursuant to Government Code section  
28 985, subdivision (b).

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**AS A TWENTY-SECOND SEPARATE AFFIRMATIVE DEFENSE**  
**TO THE FIRST CAUSE OF ACTION**  
**(Damages not caused by inherent risk of harm)**

24. Plaintiff's inverse condemnation claim is barred, in whole or part, under *Oroville v. Superior Court* (2019) 7 Cal.5th 1091 because the alleged overflow of sewage onto Plaintiffs' property and the damages she alleges were not an inherent risk of Defendant's sewer system as deliberately designed, planned, authorized, constructed, installed, inspected, operated and/or maintained. Nor did Defendant act unreasonably in expecting private property owners to comply with the law. Rather, Plaintiff's failure to install a backflow prevention device, her failure to obtain building and plumbing permits for her sewer clean out pipe, her failure to have that sewer clean out pipe inspected, her failure to maintain that sewer clean out pipe and her lateral sewer line, and/or her operation of the sewer clean out pipe in an uncapped condition at all times relevant to this action defeated the deliberate planning, design, construction, maintenance and/or operation of Defendant's sewer system and are the causes of Plaintiff's damages.

**AS A TWENTY-THIRD SEPARATE AFFIRMATIVE DEFENSE**  
**TO THE FIRST CAUSE OF ACTION**  
**(Reasonableness)**

25. Plaintiff's inverse condemnation claim is barred, in whole or part, because no unreasonable aspect of the design, planning, authorization, construction, installation, inspection, operation and/or maintenance of a public project or public improvements was a substantial cause of Plaintiff's alleged damages.



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**AS A TWENTY-FOURTH SEPARATE AFFIRMATIVE DEFENSE  
TO THE FIRST CAUSE OF ACTION  
(No public project)**

26. Plaintiff's inverse condemnation claim is barred, in whole or part, because Plaintiff's alleged damages were not substantially caused by a public project or public improvements operating or functioning as intended or as deliberately designed, constructed or maintained.

**AS A TWENTY-FIFTH SEPARATE AFFIRMATIVE DEFENSE  
TO THE FIRST CAUSE OF ACTION  
(Police Powers)**

27. Plaintiff's inverse condemnation claim is barred, in whole or part, because Defendant's actions, conduct and/or the acts complained of in the Second Amended Complaint, were undertaken by and justified by Defendant's reasonable exercise of its police powers.

**AS A TWENTY-SIXTH SEPARATE AFFIRMATIVE DEFENSE  
TO THE FIRST CAUSE OF ACTION  
(Alleged damages already fixed or compensated)**

28. Plaintiff's inverse condemnation claim is barred, in whole or part, because as a result of compensation already made to Plaintiff, to the extent that Plaintiff's alleged damages have already been redressed, fixed or compensated, or could have been with compensation already made to Plaintiff or undertaken by Plaintiff, themselves, Defendant's alleged actions, conduct and/or the acts complained of in the Second Amended Complaint, cannot be the basis for Defendant's liability or Plaintiff's alleged damages.

1                   **AS A TWENTY-SEVENTH SEPARATE AFFIRMATIVE DEFENSE**  
2                                   **TO THE FIRST CAUSE OF ACTION**  
3   **(Reasonableness of Attorney Fees)**

4           29.     Plaintiff is barred in whole or in part, from recovering costs, disbursements and  
5 expenses under Code of Civil Procedure section 1036, including attorney fees, appraisal fees and  
6 engineering fees, because those costs, disbursements, expenses and fees incurred by Plaintiff were  
7 neither reasonable nor necessary.

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9                   **AS A TWENTY-EIGHTH SEPARATE AFFIRMATIVE DEFENSE**  
10                                   **TO THE SECOND AND THIRD CAUSES OF ACTION**  
11   **(Failure to comply with Government Claims Act)**

12           30.     Plaintiff's claims are barred in whole or in part, because she failed to comply with the  
13 claim presentment requirements of the Government Claims Act, including, but not limited to,  
14 Government Code sections 900, 901, 910, 910.2, 911.2, 911.4, 945.4, 945.6, and 945.8.

15  
16                   **AS A TWENTY-NINTH SEPARATE AFFIRMATIVE DEFENSE**  
17                                   **TO THE SECOND AND THIRD CAUSES OF ACTION**  
18   **(Claims Vary Impermissibly)**

19           31.     Assuming arguendo Plaintiff has complied with the Government Claims Act by filing  
20 administrative claims, Plaintiff's claims herein are barred to the extent they vary impermissibly from  
21 the administrative claims filed.

22  
23                   **AS A THIRTIETH SEPARATE AFFIRMATIVE DEFENSE**  
24                                   **TO THE SECOND AND THIRD CAUSES OF ACTION**  
25   **(Immunity)**

26           32.     Plaintiff's claims are barred, in whole or in part, because Defendant is expressly  
27 authorized by law to engage in the acts or conduct alleged in the Second Amended Complaint, and  
28 Defendant is immune from liability pursuant to Government Code sections 815, 815.2, 815.4, 815.6,

1 818.2, 818.4, 818.6, 818.8, 820, 820.2, 820.6, 820.8, 821, 821.2, 821.4, 821.8, 822.2, 830, 830.2,  
2 830.5, 830.6, 831, 831.2, 831.3, 831.8, 835, 835.2, 835.4, 840, 840.2, 840.4, 840.6, 850.4, Civil  
3 Code section 3482, and any other statute providing immunity to public entities. Therefore,  
4 Plaintiff's claims are barred to the extent that Defendant has been granted immunity by law.

5  
6 **AS A THIRTY-FIRST SEPARATE AFFIRMATIVE DEFENSE**  
7 **TO THE SECOND AND THIRD CAUSES OF ACTION**  
8 **(Immunity)**

9 33. Plaintiff's claims are barred in whole or in part by reason of any other relevant  
10 immunity in Government Code section 800, et seq., not heretofore enunciated in this Answer.

11  
12 **AS A THIRTY-SECOND SEPARATE AFFIRMATIVE DEFENSE**  
13 **TO THE SECOND AND THIRD CAUSES OF ACTION**  
14 **(No Knowledge of Susceptibility for Emotional Distress)**

15 34. At all times pertinent to the Second Amended Complaint, Defendant did not have any  
16 knowledge of any peculiar susceptibility of Plaintiff to damage or injury from emotional distress.  
17 Plaintiff's Second Amended Complaint seeks damages for injuries for emotional distress with which  
18 a reasonable person, normally constituted, would have been able to adequately cope.

19  
20 **AS A THIRTY-THIRD SEPARATE AFFIRMATIVE DEFENSE**  
21 **TO THE SECOND AND THIRD CAUSES OF ACTION**  
22 **(Attorney's Fees)**

23 35. Defendant seeks recovery under Code of Civil Procedure section 1038 since there is  
24 no basis for recovery alleged in the Second Amended Complaint and the causes of action alleged  
25 therein.

1                                   **AS A THIRTY-FOURTH SEPARATE AFFIRMATIVE DEFENSE**  
2                                   **TO THE SECOND CAUSE OF ACTION**  
3                                   **(Civil Code § 3482)**

4           36. Plaintiff’s nuisance claim is barred in whole or in part because the conduct and acts  
5 complained of in the Second Amended Complaint, if true, were authorized by statute, regulation,  
6 municipal ordinance or other legislative authorization, and therefore cannot be the basis for a  
7 nuisance pursuant to Civil Code section 3482. Thus, Plaintiff’s claim is barred to the extent that  
8 Defendant’s actions, conduct and the acts complained of by Plaintiff in the Second Amended  
9 Complaint are not deemed to be a nuisance under Civil Code section 3482.

10  
11                                   **AS A THIRTY-FIFTH SEPARATE AFFIRMATIVE DEFENSE**  
12                                   **TO THE SECOND CAUSE OF ACTION**  
13                                   **(Future Injuries)**

14           37. Plaintiff’s nuisance claim is barred in whole or in part because Plaintiff may not recover  
15 damages for potential future injuries from the threat of nuisance.

16  
17                                   **AS A THIRTY-SIXTH SEPARATE AFFIRMATIVE DEFENSE**  
18                                   **TO THE SECOND CAUSE OF ACTION**  
19                                   **(No substantial or unreasonable interference )**

20           38. Plaintiff’s nuisance claim is barred in whole or in part because the interference alleged  
21 by Plaintiff was neither unreasonable nor substantial.

22  
23                                   **AS A THIRTY-SEVENTH SEPARATE AFFIRMATIVE DEFENSE**  
24                                   **TO THE THIRD CAUSE OF ACTION**  
25                                   **(No Dangerous Condition)**

26           39. Plaintiff’s claim for dangerous condition of public property is barred in whole or in part  
27 because Defendant’s property was not in a dangerous condition at the time of the alleged damages,  
28 as defined by Government Code section 830(a).

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**AS A THIRTY-EIGHTH SEPARATE AFFIRMATIVE DEFENSE  
TO THE THIRD CAUSE OF ACTION  
(Minor or Trivial Risk)**

40. Plaintiff’s claim for dangerous condition of public property is barred in whole or in part under Government Code section 830.2. The condition complained of and the risk, if any, created by the alleged condition was of such a minor, trivial or insignificant nature in view of the surrounding circumstances that it cannot be considered to have created a substantial risk of injury.

**AS A THIRTY-NINTH SEPARATE AFFIRMATIVE DEFENSE TO  
THE THIRD CAUSE OF ACTION  
(Occurrence of Accident/Event Not Basis for Liability)**

41. Plaintiff’s claim for dangerous condition of public property is barred in whole or in part under Government Code section 830.5. The happening of an accident or event which results in injury and Defendant’s taking of precautions or making of repairs cannot be the basis for liability for dangerous condition of public property.

**AS A FORTIETH SEPARATE AFFIRMATIVE DEFENSE  
TO THE THIRD CAUSE OF ACTION  
(Design Immunity)**

42. Plaintiff’s claim for dangerous condition of public property is barred in whole or in part under Government Code section 830.6 because any and all acts or omissions of Defendant which allegedly created the condition of the property at the time and place of the alleged damages which are the subject of this action, were in accordance with reasonably approved plans, specifications, and designs of construction of, or improvement to, public property and therefore Defendant is not liable to Plaintiff for any of the alleged damages.

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**AS A FORTY-FIRST SEPARATE AFFIRMATIVE DEFENSE**  
**TO THE THIRD CAUSE OF ACTION**  
**(No Notice)**

43. Plaintiff's claim for dangerous condition of public property is barred in whole or in part under Government Code section 835.2, including, but not limited to the facts that Defendant had neither actual nor constructive notice of any dangerous condition in such an obvious condition and in such a period of time for Defendant to have discovered the condition and its dangerous character.

**AS A FORTY-SECOND SEPARATE AFFIRMATIVE DEFENSE**  
**TO THE THIRD CAUSE OF ACTION**  
**(Reasonableness)**

44. Plaintiff's claim for dangerous condition of public property is barred in whole or in part under Government Code section 835.4. Defendant's alleged acts or omissions that created a dangerous condition, if any, were reasonable. The actions Defendant took to protect against the risk of injury created by the condition and/or Defendant's failure to take such action, if any, was reasonable.

**AS A FORTY-THIRD SEPARATE AFFIRMATIVE DEFENSE**  
**TO THE THIRD CAUSE OF ACTION**  
**(No inherent risk)**

45. Plaintiff's claim for dangerous condition of public property and Plaintiff's alleged damages resulting therefrom, if any, are not inherent risks of the pipe segment as designed, constructed, maintained and operated, and such pipe segment was not a substantial cause of the damages alleged.

1 WHEREFORE, having fully answered Plaintiff's Second Amended Complaint and having  
2 asserted its affirmative defenses hereto, Defendant respectfully prays for judgment against Plaintiff  
3 as follows:

4  
5 1. That Plaintiff take nothing by reason of her Second Amended Complaint on file herein  
6 and that this Court deny every item of relief requested by Plaintiff;

7 2. That the Second Amended Complaint, and each and every cause of action therein be  
8 ordered dismissed with prejudice;

9 3. That the Court, adjudge, determine and decree that Defendant is not obligated to  
10 compensate Plaintiff for any of the claimed damages;

11 4. That the Court, adjudge, determine, and decree that Defendant is entitled to its costs  
12 and disbursements in this action, including but not limited to reasonable attorneys' fees and expert  
13 fees pursuant to Code of Civil Procedure section 1038 and all other applicable provisions of the law;


14 5. That any judgment amount against Defendant be reduced by any collateral source  
15 payments paid to or obligated to Plaintiff pursuant to Government Code section 985, subdivision (b)  
16 and inverse condemnation law;

17 6. For costs of suit; and

18 7. For such other and further relief as the Court deems just and proper.

19 DATED: October 25, 2019

20 **COLANTUONO, HIGHSMITH &  
21 WHATLEY, PC**

22   
23 \_\_\_\_\_  
24 TERESA L. HIGHSMITH  
25 JENNIFER L. PANCAKE  
26 LILIANE M. WYCKOFF  
27 Attorneys for Defendants  
28 CITY OF SOUTH PASADENA

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**PROOF OF SERVICE**  
*Alison Smith v. City of South Pasadena, et al.*  
County of Los Angeles, Case No. 19BBCV00118

I, Holly M. Mills, declare:

I am employed in the County of Nevada, State of California. I am over the age of 18 and not a party to the within action. My business address is 420 Sierra College Drive, Suite 140, Grass Valley, California 95945-5091. My email address is: HMills@chwlaw.us. On October 25, 2019, I served the document(s) described as **CITY OF SOUTH PASADENA'S ANSWER TO SECOND AMENDED COMPLAINT** on the interested parties in this action addressed as follows:

James T. Perez, Esq.  
Law Office of James T. Perez  
23679 Calabasas Road, Suite 422  
Calabasas, California 91302

*Attorney for Plaintiff ALISON SMITH*

Telephone: (818) 884-8862

Email: JPerez@JamesPerezLaw.com

**BY MAIL:** The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Grass Valley, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 25, 2019, at Grass Valley, California.

  
\_\_\_\_\_  
Holly M. Mills